

Notice of Allowability

Application No.

09/977,019

Examiner

Charles A. Marmor, II

Applicant(s)

EDWARDS ET AL.

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment filed 15 April 2004.
2. ☒ The allowed claim(s) is/are 1-11,13,16-20,22-32,34,37-41,43-47 and 49-57 (renumbered claims 1-48).
3. ☒ The drawings filed on 12 October 2001 and 28 July 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

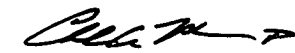
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Charles A. Marmor, II
Primary Examiner
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EXAMINER'S AMENDMENT

1. This Examiner's Amendment is responsive to the Amendment filed April 15, 2004. The Examiner acknowledges the amendments to claims 1, 16-18, 22, 37, 39, 41, 49 and 51, as well as the cancellation of claims 14 and 35. Claims 1-11, 13, 16-20, 22-32, 34, 37-41, 43-47 and 49-57 are currently pending.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

3. The application has been amended as follows:

IN THE SPECIFICATION:

- a. In paragraph [0016], line 5, --in-- has been inserted before "magnitude".
- b. In paragraph [0016], line 10, "of" (second occurrence) has been changed to --are--.
- c. In paragraph [0016], line 11, "the" (second occurrence) has been deleted.
- d. In paragraph [0017], line 7, "the" has been deleted.
- e. In paragraph [0045], line 5, "in" has been changed to --an--.
- f. In paragraph [0048], line 1, "implement" has been changed to --implemented--.
- g. In paragraph [0067], line 14, "where" has been changed to --were--.
- h. In paragraph [0072], line 5, --as-- has been inserted following "such".

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- i. In paragraph [0073], line 16, “the” (second occurrence) has been deleted.
- j. In paragraph [0073], line 24, “(block 110) if” has been changed to --(block 110). If--.

4. The following is an examiner’s statement of reasons for allowance:

Regarding claims 1-11, 13, 17, 19, 20, 22-32, 34, 38, 40, 41, 44-47 and 49-57, no prior art of record teach or fairly suggest methods or apparatus for conducting a hearing test using a computer program, as claimed by Applicant, where the test stimuli are adaptively selected based upon an interaction at a remote device according to a convergent, maximum likelihood procedure.

Regarding claims 16, 18, 37 and 39, no prior art of record teach or fairly suggest methods or apparatus for conducting a hearing test using a computer program, as claimed by Applicant, where subsequent test stimuli are reduced in magnitude by a step amount if the choice in an interaction at a remote device results in identification of a correct interval 3 times.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Marmor, II whose telephone number is (703) 305-3521. The examiner can normally be reached on M-TH (7:00-5:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mary Beth Jones can be reached on (703) 308-3400. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Charles A. Marmor, II
Primary Examiner
Art Unit 3736

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May 5, 2004